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LOK SABHA

The following Bills were introduced in Lok Sabha on the 6th September, 1960:—

BILL No. 71 OF 1960

A Bill to regulate dividends on preference shares of certain companies.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Preference Shares (Regulation of Dividends) Act, 1960.

(*2*) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to the regulation of dividends on preference shares of banking and insurance companies and financial corporations.

Definitions

2. In this Act, unless the context otherwise requires,—

1 of 1956.

(*a*) "Companies Act" means the Companies Act, 1956;

11 of 1922.

(*b*) "company" means an Indian company as defined in clause (*7A*) of section 2 of the Indian Income-tax Act, 1922 and includes a company referred to in sub-section (*ii*) of clause (*5A*) of the said section which has made arrangements for the declaration and payment of dividends within India in accordance with the rules made under the said Act;

(*c*) "preference share" means a share which having been issued and subscribed for before the 1st day of April, 1960, carries, as respects dividends, a preferential right to be paid a fixed amount or an amount calculated at a fixed rate;

(d) "previous year" has the same meaning as in the Indian Income-tax Act, 1922; 11 of 1922.

(e) "stipulated dividends", in relation to a preference share, means the fixed amount or the amount calculated at a fixed rate which the holder of such share has a preferential right to be paid as dividend;

(f) all other words and expressions used but not defined in this Act and defined in the Companies Act shall have the meanings respectively assigned to them in that Act.

Regulation of dividends on preference shares in certain cases.

3. (1) Where the stipulated dividend in respect of a preference share of a company—

(a) is specified to be free of income-tax, or

(b) was being paid before the 1st April, 1960, without any deduction therefrom on account of the income-tax payable thereon by the company, notwithstanding the absence of any specification that the dividend would be free of income-tax,

every such share shall, as respects dividends declared after the commencement of this Act, carry a preferential right to be paid free of income-tax such amount as would exceed the stipulated dividend by twenty-five per cent. thereof.

(2) Where the stipulated dividend in respect of a preference share of a company issued and subscribed for after the 31st March, 1959 is free of income-tax and the company, besides paying the stipulated dividend to the holder of such share, pays to Government on his behalf any sum on account of income-tax payable thereon, then, every such share shall, as respects dividends declared after the commencement of this Act, carry a preferential right to be paid free of income-tax such amount as together with the sum aforesaid would exceed the stipulated dividend by twenty-five per cent. thereof.

(3) Where the stipulated dividend in respect of a preference share of a company—

(a) is specified to be subject to income-tax and a deduction is made therefrom on account of the income-tax payable thereon by the company, or

(b) was being paid before the 1st April, 1960, subject to a deduction therefrom on account of the income-tax payable thereon by the company, notwithstanding the absence of any specification that the dividend would be subject to income-tax,

then, every such share shall, as respects dividends declared after the commencement of this Act, carry a preferential right to be paid such amount subject to the deduction aforesaid as would exceed the stipulated dividend by seven per cent. thereof.

(4) Where a company has in relation to a preference share declared,—

(a) after the 31st March, 1959, and before the 1st July, 1960, a dividend in respect of a previous year relevant to its assessment year 1960-61 or a subsequent assessment year, or

(b) after the 30th June, 1960, and before the commencement of this Act, a dividend in respect of any previous year,

it shall declare, in respect of the said previous year, an additional dividend of such amount as, together with the dividend already declared, would exceed the stipulated dividend—

(i) by twenty-five per cent. of the stipulated dividend in the cases referred to in sub-section (1), or

(ii) by seven per cent. of the stipulated dividend in the cases referred to in sub-section (3).

(5) For the purposes of sub-section (1), sub-section (3) and sub-section (4), any reference therein to the stipulated dividend shall, in respect of a preference share issued and subscribed for on or before the 31st March, 1959, be construed as a reference to the stipulated dividend as on that day.

Special provisions in relation to companies where a portion of their income is not chargeable to income-tax.

4. Where any preference share has been issued by a company of which any portion of the profits and gains in respect of the relevant period is not chargeable to income-tax under the provisions of the Indian Income-tax Act, 1922 (11 of 1922), then, for the purpose of the increase in the dividend in relation to any such preference share under the provisions of section 3, the increase of twenty-five per cent. or seven per cent. referred to therein shall be taken to be such proportion of the said twenty-five per cent. or seven per cent., as the case may be, as the total amount of the portions of the profits and gains of the company in respect of the relevant period on which income-tax is chargeable bears to the total amount of the profits and gains thereof in respect of that period.

Explanation.—For the purposes of this section, "relevant period", in relation to the profits and gains of a company, shall mean—

(a) the previous years relevant to such of the three assessment years as immediately precede the assessment year ending on the 31st March, 1961, and in each of which the net result of the computation of profits and gains of the company

has not been a loss or where there are only two such years, such two years, or where there is only one such year, such one year; or

(*b*) in any case where clause (*a*) is not applicable, the previous year relevant to the assessment year ending on the 31st March, 1961 or a subsequent assessment year immediately following thereafter in which the net result of the computation of profits and gains has not been a loss.

Over-riding effect of Act.

5. (*1*) The provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force or in the memorandum or articles of a company or in any agreement between the company and its shareholders or in any resolution passed by the company in a general meeting or by its Board of directors.

(*2*) Notwithstanding anything contained in this Act, a company may, in the manner provided in section 106 of the Companies Act, increase the amount of dividend in respect of a preference share beyond the limit specified in section 3 or section 4 of th's Act.

Act not to apply to participating preference dividends.

6. Nothing contained in this Act shall apply to such part of any dividend on preference shares as is referred to in clause (*i*) of the *Explanation* to sub-section (*1*) of section 85 of the Companies Act.

Power to make rules.

7. (*1*) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

With the introduction of the new scheme of taxation in relation to profits of companies and dividends therefrom by the Finance Acts, 1959 and 1960, the effective rate of income-tax and super-tax has been reduced in the case of Indian companies and such foreign companies as have made the prescribed arrangements for the declaration and payment of dividends in India. Simultaneously, the tax based on excess dividends and the wealth-tax on companies have also been abolished. It was expected that as a result of the saving in the tax payable by companies, they would declare higher dividends to all the shareholders, whether holding preference or ordinary shares. This expectation did not materialise in the case of preference shareholders. It has been brought to the notice of Government that many companies have not made suitable increases in the dividends payable to preference shareholders. In some cases, the companies have indicated that while in principle they agree that preference shareholders should get a larger dividend, there are practical difficulties in their declaring larger dividends to them. In these circumstances, it is considered necessary to undertake legislation for the purpose of regulating dividends on preference shares issued and subscribed for before the 1st April, 1960.

2. The present Bill seeks to achieve the above object and the notes on clauses explain the various provisions thereof.

NEW DELHI; MORARJI DESAI.
The 29th August, 1960.

Notes on clauses

Clause 2 defines, *inter alia*, "company", "preference share" and "stipulated dividend". The definition of "company" has been taken from the Indian Income-tax Act, 1922 and excludes from the scope of the term such foreign companies as have not made the prescribed arrangements for the declaration and payment of dividends in India.

The definition of "preference share" follows the definition of "preference share capital" contained in section 85(1) of the Companies Act, 1956, but is restricted only to shares issued and subscribed for before the 1st April, 1960. In respect of preference shares issued and subscribed for after the 31st March, 1960, the companies and the shareholders are fully aware of the legal position and it is up to the companies to clarify to the new shareholders their right as to the amount of dividend payable to them.

Clause 3.—*Sub-clause* (1) provides for the regulation of dividends on preference shares where the dividend is either specified to be tax free or which was being paid by the company without any deduction therefrom on account of income-tax payable thereon by the company although the dividend on such shares was not specified to be tax free.

Sub-clause (2) applies to preference shares issued and subscribed for after the 31st March, 1959 but before the 1st April, 1960 the stipulated dividend on which is specified to be tax free and in respect of which the company agrees to pay to the Government on behalf of the shareholder, the whole or a part of the tax payable thereon in addition to the basic dividend.

Sub-clause (3) regulates the dividends on a preference share the stipulated dividend on which is either specified to be subject to income-tax or was being paid before the 1st April, 1960 subject to deduction on account of income-tax payable by the company thereon although not specified to be subject to income-tax.

Sub-clause (4) in substance gives retrospective effect to sub-clauses (1) and (3) and provides for the declaration of an additional dividend on preference shares where any dividend declared in respect thereof after the 31st March, 1959 and before the commencement of the Act is not entitled to the benefit of "grossing" under the provisions of the Indian Income-tax Act, 1922 and the dividend

already declared is less than the dividend provided for under the Bill.

Sub-clause (5) provides that in respect of a preference share issued and subscribed for on or before the 31st March, 1959 the increase to be made under sub-clauses (1), (3) and (4) shall be with reference to the stipulated dividend as on the 31st March, 1959.

Clause 4 provides for proportionate increase in the dividend on preference shares where a part only of the income of the company is chargeable to income-tax.

Clause 5.—*Sub-clause* (2) makes a clarificatory provision that a company may for the purpose of declaring a larger dividend than that provided for in this Bill take recourse to the provisions of section 106 of the Companies Act, 1956.

Clause 6 makes it clear that the provisions of the Bill will not apply to the *additional* dividend which a participating preference shareholder is entitled to receive along with the equity shareholders in addition to the fixed amount of dividend for which he has a preferential right.

Clause 7 makes the usual provision authorising the Central Government to make rules for carrying out the purposes of the Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill authorises the Central Government to make rules for carrying out the purpose of this Bill when enacted. The rules would deal with procedural and administrative matters only. The delegation of legislative power is of a normal character.

*BILL No. 69 OF 1960

A Bill further to amend the Indian Post Office Act, 1898.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Indian Post Office (Amendment) Act, 1960.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution of a new Schedule for the First Schedule to Act 6 of 1898.

6 of 1898.

2. For the First Schedule to the Indian Post Office Act, 1898, the following Schedule shall be substituted, namely:—

"THE FIRST SCHEDULE

INLAND POSTAGE RATES

(*See* section 7)

Letters

For a weight not exceeding fifteen grams	15 *naye paise.*
For every fifteen grams, or fraction thereof, exceeding fifteen grams	10 *naye paise.*

Letter-cards

For a letter-card	10 *naye paise.*

Post cards

Single	5 *naye paise.*
Reply	10 *naye paise.*

*The President has, in pursuance of clause (1) of article 117 of the Constitution of India, recommended to Lok Sabha, the introduction of the Bill.

Book, Pattern and Sample Packets

For the first fifty grams or fraction thereof .	8 *naye paise.*
For every additional twenty-five grams, or fraction thereof, in excess of fifty grams	3 *naye paise.*

Registered Newspapers

For a weight not exceeding one hundred grams .	2 *naye paise.*
For a weight exceeding one hundred grams and not exceeding two hundred grams . .	3 *naye paise.*
For every two hundred grams, or fraction thereof, exceeding two hundred grams .	3 *naye paise.*
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
for a weight not exceeding one hundred grams	3 *naye paise.*
for every additional fifty grams, or fraction thereof, in excess of one hundred grams	2 *naye paise.*

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the Post Office.

Parcels

For a weight not exceeding four hundred grams	50 *naye paise.*
For every four hundred grams, or fraction thereof, exceeding four hundred grams .	50 *naye paise.".*

STATEMENT OF OBJECTS AND REASONS

The main object of this Bill is to introduce the Metric System of Weights and Measures in postal transactions. In framing the proposals, the principle kept in view is that the metric weight units in terms of which postage would be levied should be simple for practical working and in consonance with decimal concepts.

NEW DELHI; P. SUBBARAYAN.

The 30th August, 1960.

M. N. KAUL,
Secretary.

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